IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE KURIAN JOSEPH

FRIDAY, THE 6TH JULY 2007 / 15TH ASHADHA 1929

WP(C).No. 27567 of 2004(F)

PETITIONERS:

1. **N. VENUGOPALAN, AGED 51 YEARS, S/O. A.V. KUNHIRAMAN NAMBIAR, HIGH SCHOOL ASSISTANT (PHYSICAL SCIENCE) TAGORE VIDYA NIKETAN G.H.S. SCHOOL, TALIPARAMBA, P.O. TALIPARAMBA, KANNUR DISTRICT.**

2. **K.P. CHANDRAN, AGED 53 YEARS, S/O. CHANDUKUTTY, HIGH SCHOOL ASSISTANT KOTTAYAM RAJA'S HIGH SCHOOL, PATHIRIYAD P.O. SANKARANELLUR-670 645, TELLICHERRY, EDUCATIONAL DISTRICT.**

BY ADV. SRI.V.A.MUHAMMED, SRI.K.E.HAMZA.

RESPONDENTS:

1. **THE STATE OF KERALA, REPRESENTED BY THE SECRETARY TO GOVERNMENT (EXPENDITURE) FINANCE (PRU-I) DEPARTMENT, SECRETARIAT, TRIVANDRUM.**

2. **THE ACCOUNTANT GENERAL (A & E) KERALA, TRIVANDRUM.**

3. **THE DEPUTY DIRECTOR OF EDUCATION, KANNUR, P.O. KANNUR-2.**

4. **THE HEADMASTER/PRINCIPAL, TAGORE VIDYA NIKETAN G.H.S. SCHOOL, TALIPARAMBA, P.O. TALIPARAMBA, KANNUR DISTRICT.**

W.P.(C). NO.27567/2004:

5. THE HEADMASTER, KOTTAYAM RAJA'S HIGH SCHOOL, PATHIRIYAD P.O., SANKARANELLUR-670 643, KANNUR DISTRICT.

6. THE DISTRICT EDUCATIONAL OFFICER, THALASSERY.

BY GOVERNMENT PLEADER SMT. K.R. DEEPA.

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 06/07/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

W.P.(C). NO.27567/2004:

APPENDIX

PETITIONER'S EXHIBITS:

EXT.P.1: COPY OF THE AUDIT OBJECTION OF P.1. DTD. NIL.

EXT.P.1.A: COPY OF THE ORDER NO. B4-8248/2002 OF THE R.6 DTD. 24/08/2002.

EXT.P.2: COPY OF THE ORDER OF THE R.2. DTD. 12/09/1994.

EXT.P.2.A: COPY OF THE CIRCULAR OF THE GOVERNMENT DTD. 25/10/1994.

EXT.P.3: COPY OF THE CIRCULAR OF THE GOVERNMENT DTD. 26/12/1995.

EXT.P.4: COPY OF THE STATE EXPRESS TELEGRAM DTD. 03/04/2002.

EXT.P.5: COPY OF THE APPEAL PETITIONS FILED BY THE P.1. DTD. 24/07/2004.

EXT.P.6: COPY OF THE -DO- OF THE P.2. DTD. 13/08/2004.

EXT.P.7: COPY OF THE LETTER OF THE R.4. DTD. 03/08/2004.

EXT.P.8:C OP, LETTER OF THE R.5. DTD. 13/08/2004.

EXT.P.9: COPY OF THE G.O. (P). NO. 206/2003/FIN. OF THE GOVERNMENT DTD. 05/04/2003.

EXT.P.10: COPY OF THE CIRCULAR NO. 92/2003/FIN. OF THE GOVERNMENT DTD. 02/12/2003.

RESPONDENT'S EXHIBITS: NIL.

//TRUE COPY//

prv.

KURIAN JOSEPH J.

W.P.(C) No.27567 of 2004

Dated 6th July, 2007.

J U D G M E N T

The issue pertains to the audit objection regarding the option exercised in terms of G.O.(P) No.399/99/Fin. dated 5.2.1999. This Court in several judgments has upheld the option exercised by the incumbents in the light of the said government Order, since the same was the prevailing order at the relevant time. It is also settled law that the incumbents are entitled to the benefit of option with effect from the date of effect of the option and not from the date of making the reoption. There will be a direction to the first respondent to take appropriate action on Exts.P5 and P6 in the light of the above settled positions, within a period of three months from the date of production of a copy of the judgment. The interim order passed by this Court on 22.9.2004 will continue till such time. In order to enable the first respondent to take action as above, the impugned orders are quashed.

The writ petition is disposed of as above.

KURIAN JOSEPH, JUDGE.

tgs

KURIAN JOSEPH, J.

O.P. NO. OF 200

J U D G M E N T

Dated 6th July, 2007.